**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**W.P.NO.3029 OF 1990**

**DATED: 20-10-2005**

**BETWEEN:**

N.Nagesh Reddy .. Petitioner

And

The Govt.of A.P. rep.by the Chief Secretary, GAD

And others

… Respondents

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

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**O R D E R**

Heard both the counsel.

2 . This writ petition is filed to direct the respondents to refund Rs.1,10,150/- to the petitioner in accordance with the directions issued by the Hon'ble Supreme Court in its judgment dated 23.4.1988 in Civil Appeal 547/1985 and W.P. (Civil No.12928/85).

3. The case of the petitioner in the affidavit filed in support of the writ petition is that the 2nd respondent – The Andhra Pradesh Christian Medical Education Society, called for applications for admission into first year M.B.B.S., course in December, 1984. Pursuant to the same, the petitioner purchased the application form for Rs.25/-, got his name registered by paying Rs.150/- towards registration fee and deposited Rs.10,000/- towards the reservation of the seat and thereafter, he was given admission in first year M.B.B.S. course and he paid an amount of Rs.1,00,000/-. The petitioner was made to understand that the said college was recognized by both Government of India as well as by Government of A.P. Subsequently, it was brought to light that the 2nd respondent cheated the public and collected huge amounts. The 1st respondent – Government initiated criminal proceedings against the persons concerned with the college and the 4th respondent – C.B.C.I.D. seized all the properties of the 2nd respondent and frozen its accounts pending investigation. The 2nd respondent challenging the order of closure of college, carried the matter to the Supreme Court, where the Apex Court confirming the order of closure, directed the State Government to devise suitable

ways, legislative and administrative to compensate the students at least monetarily. The funds of the 2nd respondent are in deposit with the 3rd respondent bank. The petitioner made several representations to refund the amount, but is no avail. It is stated that one of the student filed W.P.No.15412/1989 and the same is pending. Therefore, the petitioner sought for a direction to the respondents to refund the amount of the petitioner in accordance with the directions of the Supreme Court.

4. The Joint Secretary to Government, Health Medical and Family Welfare Department, A.P. Secretariat, Hyderabad filed counter on behalf of 1st respondent. In the counter it is stated that the 2nd respondent started the college without permission. It is stated that as per the observations of the Apex Court, the 2nd respondent is not a minority institution and as such no relief can be claimed against this respondent. The individual is responsible for all that has happened since knowing fully well about starting of the medical college without prior permission from the Government or the affiliation from the University, as he got admitted by paying huge amounts and also ignoring the warnings issued by the Government and Osmania University. The Government initiated criminal proceedings against the President and others of the 2nd respondent – college in the court of IX Metropolitan Magistrate Court, Hyderabad, in which A-3 and A-5 were found not guilty and accordingly acquitted and the criminal court gave certain directions with regard to the properties seized. It is stated that in pursuance of the orders of the Supreme Court in C.A.No.5497/1985 dated 24.4.1986 the Government have appointed D.Rama Linga Swamy, retired District and Sessions Judge as

Arbitrator, to perform the functions of the competent authority for the purpose of payment of compensation to the students of the 2nd respondent college and the matters connected therewith and the as per the report submitted by the said arbitrator, 71 students were identified and it was suggested for payment of compensation to the students in the shape of exgratia at the rate of Rs.20,000/- to each claimant/student and also the interim relief at 10 per cent of capitation fee to those who have paid capitation fee in addition to the exgratia of Rs.20,000/-. Further it is submitted that when the above report of Sri D.Rama Linga Swamy is under examination, it has come to the notice of the Government that the III Metropolitan Magistrate Court, Hyderbad in C.C.No.137/94 filed by the Deputy Superintending of Police, Crime Branch, CID have directed among others that movable and immovable properties and cash lying at the credit of Indira Gandhi Christian Institute of Medical Sciences, Hyderabad shall be refunded to the said society and the society should refund the fee and other fee to all the students. Against the said orders, the State carried the matter in appeal in Crl.A.No.805/1996 and the same is pending. It is further stated that a similar writ petition in W.P.No.15412/1989 filed by one Miss. Y.Shanti has already been disposed of by this Court on 19.8.1999. It is finally stated that in order to take further action on the report of Sri D.Linga Swamy final orders of High Court on the C.A.No.805/96 filed against the orders in C.C.No.137/94 dated 18.12.1995 are still awaited.

5. The 2nd respondent college also filed counter. In the counter as well as in the writ petition no. 12119/1994 it is stated that the 2nd respondent formed the “Andhra Pradesh Christian Medical Education

Society" under the A.P.(Telangana Area) Public Societies Registration Act, 1350 fasli vide Registration No.1398/84 dated 31.8.1984 and started corresponding for the establishment of the Medical College at Hyderabad specially for the benefit of the Christian Minorities. The filing of the criminal case etc is stated. Since the further details are not necessary for the disposal of the writ petition, they are not being referred to.

6. From the above, the case of the petitioner is that the petitioner was given admission and he paid the above stated amounts. But subsequently it came to light that admission was given by the 2nd respondent, without there being any recognition to start the medical college. Therefore, the 1st respondent initiated criminal proceedings against the 2nd respondent college and the college was closed. Challenging the order of closure, the 2nd respondent – College carried the matter in appeal before the Supreme Court, which directed the State Government to devise suitable ways, legislative and administrative to compensate the students at least monetarily. Thereafter, as per the counter, Sri D.Rama Linga Swamy, retired District Judge was appointed as arbitrator and he submitted the report. In the counter it is stated that since the order of the High Court in Crl. A.No.805/1996, filed against C.C.No.137/1994 dated 18.12.1995 are awaited, no further action could be taken on the report of the said arbitrator.

7. On enquiry, it has come to the notice of this court that the Criminal Appeal No.805/1996 was disposed of by this court on 8.8.2003. Similarly writ petition filed by one Y.Shanthi in W.P.No.15412/19789 was already disposed of by this court on 19.8.1999, leaving it open to

the petitioner therein to work out her remedies in appropriate proceedings.

8 . Therefore, in view of the above statement made in the counter, the writ petition is disposed of with the following direction:

“The claim of the petitioner shall be considered by the 1st respondent in the light of the report submitted by Sri D.Rama Linga Swamy, retired District Judge, who was appointed by the 1st respondent as arbitrator.”

8 . In the circumstances of the case, there shall be no order as to costs.

AVS ----------

.10.2005